

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE**

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**KIMBERLY R. MORELL  
and HUSBAND MICHAEL  
MORELL,**

**PLAINTIFFS**

**VS**

**JAMES D. CLARIDA and  
ROEHL TRANSPORT,  
INC.**

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**CASE NO.: 1:08-CV-222**

**DEFENDANTS  
PLAINTIFF'S RESPONSES TO INITIAL DISCLOSURE**

**1) State precisely the classification of the cause of action being filed, a brief factual outline of the case including plaintiff's contentions as to what defendant did or failed to do, and a succinct statement of the legal issues in the case.**

RESPONSE: This case is an action for personal injury and lost of consortium arising from a wreck which occurred in Chattanooga, Hamilton County, Tennessee. The case was filed in the Circuit Court of Hamilton County, Tennessee and removed to this court by the defendants based on diversity jurisdiction.

On October 3, 2007 at approximately 5:53 p.m., the plaintiff Kimberly Morell (hereinafter the “plaintiff Kim”) was operating a 2001 Infiniti G20 automobile owned by the plaintiff Kim. At said time and date, the plaintiff Kim was traveling east in the Infiniti automobile on Interstate 24 near the Belvoir Avenue Exit in Hamilton County, Tennessee. The plaintiff Kim was operating her vehicle in the right lane of Interstate 24. At all times relevant hereto, the plaintiff Kim was operating the Infiniti automobile she was driving in a careful and prudent manner with due regard for the conditions then existing. At said time and place, the defendant James D. Clarida (hereinafter the “defendant Clarida”) was operating a 2007 tractor trailer truck owned by the defendant Roehl Transport, Inc. (hereinafter the “defendant Roehl”). The defendant Clarida was traveling in an east on Interstate 24 near the Belvoir Avenue ramp. At the location where the plaintiff Kim and the defendant Clarida were operating their respective vehicles, Interstate 24 is a three-lane road. At said time and place, the 2007 tractor trailer truck driven by the defendant Clarida was in the middle lane of Interstate 24. The defendant Clarida proceeded to change from the center lane to the right eastbound lane, striking the automobile driven by plaintiff Kim. After the defendant Clarida’s tractor trailer truck struck the automobile driven by plaintiff Kim, the automobile driven by the defendant Kim was pushed so that the driver’s side was

against the front of the tractor trailer truck. As a direct and proximate cause of the collision the plaintiff Kim suffered a personal injury. The wreck was caused by the negligence of the defendant Clarida which is imputed to the defendant Roehl.

**2) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative case law which plaintiff contends are applicable to this action.**

**RESPONSE:** (1) The defendant Clarida was operating the tractor trailer truck in the course and scope of his employment by the defendant Roehl. Under the doctrine of respondeat superior, the defendant Clarida and the defendant Roehl are jointly liable for the injuries and damages to the plaintiffs.

(2) The specifications of negligence are as follows:

(a) In violating T.C.A. § 55-8-123 “Driving on roadways laned for traffic” which provides “Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic...(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety....” which constitutes negligence per se;

(b) In violating T.C.A. § 55-10-205 “Reckless Driving” which provides: “(a) any person who drives any vehicle in willful or wanton disregard for the

safety of persons or property commits reckless driving,” which constitutes negligence per se;

(c) In failing to maintain his lane while operating a motor vehicle which constitutes negligence as a matter of fact and law;

(d) In failing to keep a proper lookout while operating his motor vehicle which constitutes negligence as a matter of fact and law.

**(3) Provide the name and, if known, the address and telephone number of each individual likely to have discoverable information that you may use to support your claims or defenses, unless solely for impeachment, identifying the subjects of the information. (Attach witness list to Responses to Initial Disclosures as Attachment A.)**

**(4) Provide the name of any person who may be used at trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence. For all experts, described in Fed.R.Civ.P.26(a)(2)(B), provide a separate written report satisfying the provisions of that rule. (Attach expert witness list and written reports to Responses to Initial Disclosures as Attachment B.)**

**(5) Provide a copy of, or a description by category and location of, all documents, data compilations, and tangible things in your possession, custody, or control that you may use to support your claims or defenses unless solely**

**for impeachment, identifying the subjects of the information. (Attach document list and descriptions to Responses to Initial Disclosures as Attachment C.)**

**(6) In the space provided below, provide a computation of any category of damages claimed by you. In addition, include a copy of, or described by category and location of, the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered, making such documents or evidentiary material available for inspection and copying as under Fed.R.Civ.P.34. (Attach any copies and descriptions to Responses to Initial Disclosures as Attachment D.)**

**(7) Attach for inspection and copying as under Fed.R.Civ.P.34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment. (Attach copy of insurance agreement to Responses to Initial Disclosures as Attachment E.)**

**(8) Disclose the full name, address, and telephone number of all persons or legal entities who have a subrogation interest in the cause of action set forth in plaintiffs' cause of action and state the basis and extent of such interest.**

Blue Cross Blue Shield of Tennessee

801 Pine Street

Chattanooga, TN 37402-2555

General Information - (423) 535-5600

Policy No. ERL900813501

Group # 98550

/s/ Clifton M. Patty, Jr.  
Georgia Bar No.: 567350  
Attorney for plaintiffs

P.O. Box 727  
Ringgold, Georgia 30736  
(706)935-9100  
(706)935-6022 facsimile  
[pattylaw@catt.com](mailto:pattylaw@catt.com)

## **CERTIFICATE OF SERVICE**

I hereby certify that on September 23, 2008, I electronically filed Plaintiff's Responses to Initial Disclosures of with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

Lee L. Piovarcy, Esquire

I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

None.

s/Clifton M. Patty, Jr.  
Georgia Bar No. 567350  
Attorney for plaintiffs

Patty & Young  
P.O. Box 727  
Ringgold, Georgia 30736  
(706)935-9100  
(706)935-6022 facsimile  
[pattylaw@catt.com](mailto:pattylaw@catt.com)

**ATTACHMENT “A”**

Officer J. Chris Beavers  
Chattanooga Police Department  
3410 Amnicola Hwy.  
Chattanooga, TN 37406

Kimberly R. Morell  
c/o Clifton M. Patty, Jr.  
P.O. Box 727  
Ringgold, Georgia 30736

Michael J. Morell  
c/o Clifton M. Patty, Jr.  
P.O. Box 727  
Ringgold, Georgia 30736

James D. Clarida  
Address known to defendants



**ATTACHMENT “B”**

Treating Physicians at Erlanger Hospital  
975 East Third Street  
Chattanooga, Tennessee 37403

Christopher G. Haddock, M.D.  
John D. Harris, M.D.  
Erlanger South Family Practice  
5195 Battlefield Parkway  
Ringgold, Georgia 30736  
(706)937-9292

Treating Physical Therapists at Benchmark Physical Therapy  
8823 Production Lane  
Ooltewah, Tennessee 37363  
(423)238-7217

Charles Pray, D.C.  
Pray Chiropractic  
2551 Battlefield Parkway  
Ft. Oglethorpe, Georgia 30742  
(706)866-8273

### **ATTACHMENT “C”**

Medical records, medical bills, wage documents, and accident report are located at the individual office of the persons identified in Attachment “B” as well as in the office of Clifton M. Patty, Jr., attorney for plaintiffs, 7731 Nashville Street, Ringgold, Georgia 30736, (706)935-9100.

**ATTACHMENT "D"**  
**MEDICAL ITEMIZATION**  
**KIMBERLY MORELL**

The plaintiff Kim Morell seeks to recover her medical expenses and lost wages proximately caused by the negligence of the defendants. The plaintiff Kimberly Morell also seeks to recover money damages for pain and suffering, past, present and future. The amount of damages for pain and suffering are determined by the jurors passed on the evidence submitted. The plaintiff Michael Morell seeks to recover money damages for loss of consortium. See attached itemization of medical bills, to date and lost wages, to date.

Erlanger Hospital	10-03-07		\$1,716.00
Pharmacy Bills	10-3-07	\$	30.00
	10-24-07	\$	10.00
		\$	40.00
Hamilton Co. EMS	10-3-07	\$	986.00
Emergency Physicians	10-3-07	\$	624.00
South Family Practice (follow-up)	10-26-07	\$	98.00
	1-7-08	\$	57.82
		\$	155.82
Physical Therapy	10-31-07	\$	546.00
Benchmark PT	11-2-07	\$	311.50
	11-6-07	\$	311.50
	11-7-07	\$	311.50
	11-12-07	\$	411.25

11-14-07	\$ 14.00 (ice pack)
11-15-07	\$ 407.75
11-19-07	\$ 395.50
11-21-07	\$ 411.25
11-26-07	\$ 437.50
11-29-07	\$ 411.25
12-4-07	\$ 423.50
12-12-07	\$ 423.50
12-14-07	\$ 423.50
12-18-07	\$ 523.25
12-20-07	\$ 379.75
12-24-07	\$ 488.25
12-28-07	\$ 327.25
12-31-07	\$ 504.00
1-2-08	\$ 504.00
1-8-08	\$ 472.50
1-10-08	\$ 472.50
1-15-08	\$ 572.25
1-17-08	\$ 423.50
1-22-08	\$ 423.50
1-24-08	\$ 423.50
1-29-08	\$ 423.50
1-31-08	\$ 423.50

**\$11,600.75**

**Dr. Pray**

**(out of pocket)**

3-24-08	\$460.00
3-25-08	\$135.00
3-27-08	\$135.00
3-31-08	\$135.00
4-1-08	\$135.00
4-3-08	\$135.00
4-7-08	\$135.00
4-8-08	\$135.00
4-10-08	\$135.00
4-15-08	\$135.00
4-17-08	\$135.00
4-22-08	\$135.00
4-24-08	\$135.00

<b>4-28-08</b>	<b>\$135.00</b>
<b>5-1-08</b>	<b>\$130.00</b>
<b>5-6-08</b>	<b>\$130.00</b>
<b>5-13-08</b>	<b>\$115.00</b>
<b>5-19-08</b>	<b>\$130.00</b>
<b>5-27-08</b>	<b>\$130.00</b>
<b>6-3-08</b>	<b>\$115.00</b>
<b>6-16-08</b>	<b>\$130.00</b>

**\$3,090.00**

**Total: \$18,211.82**

**Lost Wages:**

10/3/07	8 hours	@\$26.52/hr	\$212.16
10/4/07	8 hours	@\$26.52/hr	\$212.16
10/5/07	8 hours	@\$26.52/hr	\$212.16
10/17/07	8 hours	@\$26.52/hr	\$212.16
10/31/07	1.5 hours	@\$26.52/hr	\$ 39.78
11/2/07	1.5 hours	@\$26.52/hr	\$ 39.78
11/6/07	1.5 hours	@\$26.52/hr	\$ 39.78
11/7/07	1.5 hours	@\$26.52/hr	\$ 39.78
11/12/07	2 hours	@\$26.52/hr	\$ 53.04
11/19/07	1.25 hours	@ 26.52/hr	\$ 33.15
11/21/07	1.25 hours	@26.52/hr	\$ 33.15
11/26/07	1.75 hours	@ 26.52/hr	\$ 46.41
11/29/07	1.50 hours	@ 26.52/hr	\$ 39.78
12/4/07	1.50 hours	@26.52/hr	\$ 39.78
12/6/07	1.25 hours	@26.52/hr	\$ 33.15
12/12/07	1.50 hours	@26.52/hr	\$ 39.78
12/14/07	1.75 hours	@26.52/hr	\$ 46.41
12/18/07	1.50 hours	@26.52/hr	\$ 39.78
12/20/07	1.75 hours	@26.52/hr	\$ 46.41
12/24/07	2.50 hours	@26.52/hr	\$ 66.30
12/28/07	1.75		\$ 46.41
12/31/07	1.75		\$ 46.41
1/2/08	1.75		\$ 46.41
1/7/08	1.00		\$ 26.52

1/8/07	2.50	\$ 66.30
1/10/08	2.50	\$ 66.30
1/15/08	2.00	\$ 53.04
1/17/08	2.25	\$ 59.67
1/22/08	1.75	\$ 46.41
1/24/08	1.75	\$ 46.41
1/29/08	1.75	\$ 46.41
1/31/08	1.75	\$ 46.41

<b>Total</b>		<b>\$1,272.96</b>
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**Total Medical and Lost Wages:      \$19,484.78**

**ATTACHMENT “E”**

Gallagher Bassett Services, Inc.

8 Flowers Drive

Mechanicsburg, PA 17050

(800)437-1266

Claim No.: 002019001195AD 01